

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Philadelphia)**

IN RE:

**ANTHONY J. COSTANZO
KIMBERLY A. KATCHEN-COSTANZO
AKA KIMBERLY A. KATCHEN
Debtors**

BK. No. 19-14882-jkf

Chapter No. 13

**U.S. BANK NATIONAL ASSOCIATION, NOT
INDIVIDUALLY BUT SOLELY AS TRUSTEE
FOR BLUEWATER INVESTMENT TRUST
2017-1**

11 U.S.C. §362

Movant

v.

**ANTHONY J. COSTANZO
KIMBERLY A. KATCHEN-COSTANZO
AKA KIMBERLY A. KATCHEN
Respondents**

**MOTION OF U.S. BANK NATIONAL ASSOCIATION, NOT INDIVIDUALLY BUT
SOLELY AS TRUSTEE FOR BLUEWATER INVESTMENT TRUST 2017-1 FOR RELIEF
FROM AUTOMATIC STAY UNDER §362**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtors, ANTHONY J. COSTANZO and KIMBERLY A. KATCHEN-COSTANZO AKA KIMBERLY A. KATCHEN.

1. Movant is **U.S. BANK NATIONAL ASSOCIATION, NOT INDIVIDUALLY BUT SOLELY AS TRUSTEE FOR BLUEWATER INVESTMENT TRUST 2017-1.**

2. Debtors, ANTHONY J. COSTANZO and KIMBERLY A. KATCHEN-COSTANZO AKA KIMBERLY A. KATCHEN are the owners of the premises located at **532 S TANEY ST, PHILADELPHIA, PA 19146**, hereinafter known as the mortgaged premises.

3. Movant is the holder of a mortgage on the mortgaged premises.

4. Debtors' failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

5. Movant wishes to institute foreclosure proceedings on the mortgage because of Debtors' failure to make the monthly payment required hereunder.

6. The foreclosure proceedings to be instituted were stayed by the filing of the instant Chapter 13 Petition.

7. As of October 28, 2019, Debtors have failed to tender post-petition mortgage payments for the months of August 13, 2019 through October 13, 2019. The monthly payment amount for the months of August 13, 2019 through October 13, 2019 is \$3,236.33, for a total amount due of \$9,708.99. The next payment is due on or before November 13, 2019 in the amount of \$3,236.33. Under the terms of the Note and Mortgage, Debtors have a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant, **U.S. BANK NATIONAL ASSOCIATION, NOT INDIVIDUALLY BUT SOLELY AS TRUSTEE FOR BLUEWATER INVESTMENT TRUST 2017-1**, requests the Court award reimbursement in the amount of \$1,031.00 for the legal fees and costs associated with this Motion.

9. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

10. Movant specifically requests permission from the Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable nonbankruptcy law.

11. Movant requests that if relief is granted that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 with respect to **532 S TANEY ST, PHILADELPHIA, PA 19146** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable

nonbankruptcy law; and

- c. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and
- d. Granting any other relief that this Court deems equitable and just.

/s/ Thomas Song, Esquire

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